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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

13 FELTON A. SPEARS, JR. and SIDNEY } Case No. 5-08-CV-00868 (RMW)  
14 SCHOLL, on behalf of themselves and }  
all others similarly situated, }  
15 Plaintiffs, }  
16 v. }  
17 FIRST AMERICAN EAPPRAISEIT }  
(a/k/a eAppraiseIT, LLC), a Delaware }  
20 limited liability company, }  
21 Defendant. }  
22

**NOTICE OF OBJECTION FOR  
OBJECTOR LARRY ELLIS**

23  
24 TO THE CLERK OF THE COURT AND ALL PARTIES AND THEIR  
25 ATTORNEYS OF RECORD:

26 Class member, LARRY ELLIS, obtained a loan from Washington Mutual on or  
27 after June 1, 2006 and the loan number is 139588404 dated July 7, 2006. My address  
28 is 2040 Laguna #402 San Francisco CA 94115 and my telephone number is 415-517-  
2197. I have not appeared as an objector and although I don't understand why it is

1 relevant my attorney represented an objector in Google 5:10-cv-4809 (EJD); Hyundai  
2 MDL 2:13-ml-2424 and Nader CV-12-01265.  
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4 I. DEFECTIVE CLAIMS PROCESS  
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6 The settlement is unfair, unreasonable, and inadequate because it discriminates  
7 between Class Members and creates interclass conflict. Under the Settlement, Class  
8 Members who submit Claim Forms affirming they paid their appraisal fee will each  
9 receive treble relief (about \$181). Those who do not submit a Claim Form will receive  
10 about \$60 each. The Claim Form, however, does not request any special information  
11 beyond the claimant's name, address, and signature. It does not request information  
12 regarding the Claimant's mortgage, the appraisal, or how much the Claimant was  
13 charged for the appraisal. The settlement arbitrarily creates an unwarranted and  
14 unauthorized distinction between Class Members. The Class is defined as, "All  
15 consumers throughout the United States who, on or after June 1, 2006, received home  
16 loans for personal, as opposed to business or commercial purposes, originated by  
17 Washington Mutual Bank, F.A., utilizing appraisals that they paid for and obtained  
18 from defendant eAppraiseIT" (see Court's Order dated September 16, 2014 (Dkt. No.  
19 438)). Thus, all Class Members are equally defined, there is no distinction between  
20 Class Members. Each Class Member obtained and paid for an appraisal by  
21 Defendant. A Class Member should not receive triple benefits simply because he or  
22 she submits a Claim Form. Based on the claims submitted to date, a minority of  
23 around 4% of Class Members will receive triple benefits, totaling nearly half a million  
24 dollars. It is unfair and unreasonable to create an artificial distinction and provide a  
25 windfall to a minority of Class Members at the expense of the majority. Class  
26 Members should receive equal compensation. Equal compensation would, at a  
27 minimum, increase Class Members payouts by \$5, a 9% increase.  
28

1       Even if there were a reasonable distinction between Class Members, which  
 2 there is not, the Settlement Administrator presumably knows which Class Members  
 3 are eligible for treble benefits. Because the Administrator is already automatically  
 4 paying Class Members (whether or not they submit Claim Forms), the Administrator  
 5 should automatically distribute treble benefits to all eligible Class Members.  
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7           II. CY PRES  
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9       The settlement agreement also is inadequate because it does not provide for  
 10 how unclaimed and/or remaining settlement funds will be distributed. Typically, a  
 11 specific cy pres recipient is named in the Settlement Agreement and the recipient  
 12 identifies how it will utilize the remaining funds to benefit absent Class Members. No  
 13 stipulation for unclaimed/remaining settlement funds was made here. The Settlement  
 14 Agreement merely provides, “The Court will decide in its sole discretion what to do  
 15 with any monies remaining in the Settlement Fund after the distributions set forth in  
 16 this Section are completed.” The Parties cannot simply “punt” the issue to the Court.  
 17 Class Members deserve to know who will receive unclaimed funds, and how the funds  
 18 will be used.

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 21           III. ATTORNEYS’ FEES  
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23       Class Counsel’s request for more than half of the total Settlement Fund is  
 24 unreasonable and unfair to the Class. Class Counsel requests \$2,959,183 in fees plus  
 25 \$2,299,510.21 in costs, which totals 53.3% of the \$9,863,945 settlement fund. Class  
 26 Counsel has not demonstrated why it should receive a percentage of the settlement  
 27 fund that is greater than the Ninth Circuit’s benchmark of 25%, especially considering  
 28 the defects mentioned above. Further, the Court should significantly reduce or deny  
 Class Counsel’s request for costs. If the Court denies Class Counsel’s costs, Class

1 Counsel would still net more than \$650,000. Class action attorneys should not be  
2 permitted to backdoor this Court's caselaw by packing millions of dollars in costs into  
3 its award request. The Class has no way to determine whether or not Class Counsel  
4 economized its costs, or if Class Counsel's costs were directly related to, and  
5 necessary to the prosecution of, this case. Class Counsel's request of more than \$2  
6 million in costs nearly equals its fee request, and the request represents more than half  
7 of the total funds that Class Members will receive (which is an estimated \$4.3 million).  
8 Worse, Class Counsel reserved the right to seek additional reimbursement of any such  
9 costs from the Settlement Fund in the event of an appeal, which would mean that  
10 Class Counsel could increase its windfall by hundreds of thousands of dollars at the  
11 expense of the Class. The Court should reduce Class Counsel's fee request and deny  
12 its request for costs. If so, the Court would increase Class Member benefits by more  
13 than 60%.

14 This settlement agreement likely would not have been made but for Class  
15 Counsel's agreement to seek fees and costs exclusively from the Settlement Fund and  
16 not from EA (see Dkt. No. 584-01 at 16-17). Defendants likely conditioned  
17 settlement on the payment of fees and costs, which is inappropriate. The issue of  
18 attorneys' fees should not have played a role in settlement discussions. If they did,  
19 Class Counsel abdicated its duty to Class Members.  
20

#### 21 22 IV. BURDENSOME OBJECTION REQUIREMENTS 23

24 The Parties have attempted to discourage and punish Class Members from  
25 speaking their mind and attempting to improve the Settlement. The objections stated  
26 above are intended to improve the Settlement and benefit the Class. The Parties,  
27 however, asked this Court to require objectors to: (1) state the name, court, and  
28 docket number of any class action litigation in which the objecting Settlement Class

Respectfully Submitted,

Dated: 3-20-15

/s/Matthew Kurilich

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Matthew Kurilich

*Attorney for Objector*

John D. Cullen

Larry Ellis

### *Objector*

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CERTIFICATE OF SERVICE

9 I hereby certify that a true copy of the above document was served upon the  
10 attorneys of record for each other party through the Court's electronic filing service  
11 on March 20, 2015.

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/s/Matthew Kurilich  
Matthew Kurilich

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